

MAINE STATE LEGISLATURE

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STATE OF MAINE
124TH LEGISLATURE
FIRST REGULAR SESSION



Summaries of bills, adopted amendments and laws enacted or finally passed during
the First Regular Session of the 124th Maine Legislature coming from the

JOINT STANDING COMMITTEE ON JUDICIARY

July 2009

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OFFICE OF POLICY AND LEGAL ANALYSIS
13 STATE HOUSE STATION
AUGUSTA, ME 04333
(207) 287-1670

STATE OF MAINE

124TH LEGISLATURE
FIRST REGULAR SESSION



LEGISLATIVE DIGEST OF BILL SUMMARIES AND ENACTED LAWS

This *Legislative Digest of Bill Summaries and Enacted Laws* summarizes all bills and adopted amendments and all laws enacted or finally passed during the First Regular Session of the 124th Maine Legislature.

The *Digest* is arranged alphabetically by committee, and within each committee by LD number. The committee report(s), prime sponsor and lead co-sponsor(s), if designated, are listed below each bill title. All adopted amendments are summarized and listed by paper number. A subject index is included with each committee. The appendices include a summary of relevant session statistics, an index of all bills by LD number and an index of enacted laws by law type and chapter number.

Final action on each bill is noted to the right of the bill title. The abbreviations used for various categories of final action are as follows:

CARRIED OVER.....	Carried over to a subsequent session of the Legislature
CON RES XXX.....	Chapter # of Constitutional Resolution passed by both Houses
CONF CMTE UNABLE TO AGREE.....	Committee of Conference unable to agree; bill died
DIED BETWEEN BODIES.....	House & Senate disagree; bill died
DIED IN CONCURRENCE.....	One body accepts ONTP report; the other indefinitely postpones the bill
DIED ON ADJOURNMENT.....	Action incomplete when session ended; bill died
EMERGENCY.....	Enacted law takes effect sooner than 90 days
FAILED EMERGENCY ENACTMENT/FINAL PASSAGE.....	Emergency bill failed to get 2/3 vote
FAILED ENACTMENT/FINAL PASSAGE.....	Bill failed to get majority vote
FAILED MANDATE ENACTMENT.....	Bill imposing local mandate failed to get 2/3 vote
NOT PROPERLY BEFORE THE BODY.....	Ruled out of order by the presiding officers; bill died
INDEF PP.....	Bill Indefinitely Postponed; bill died
ONTP (or Accepted ONTP report).....	Ought Not To Pass report accepted; bill died
P&S XXX.....	Chapter # of enacted Private & Special Law
PUBLIC XXX.....	Chapter # of enacted Public Law
RESOLVE XXX.....	Chapter # of finally passed Resolve
UNSIGNED.....	Bill held by Governor
VETO SUSTAINED.....	Legislature failed to override Governor's Veto

The effective date for non-emergency legislation enacted in the First Regular Session of the 124th Legislature is September 12, 2009. The effective date for legislation enacted as an emergency measure is specified in the enacted law summary for those bills.

Joint Standing Committee on Judiciary

**LD 365 An Act To Amend the Laws Governing MaineCare Estate Recovery
Undertaken by the Department of Health and Human Services**

PUBLIC 150

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MILLS P	OTP-AM	S-120

This bill provides that the homestead allowance established in the Maine Revised Statutes, Title 18-A, section 2-401 is the sole exemption available for a decedent's homestead. It also provides that only personal property included in the decedent's estate that is exempt under Title 14, section 4422, is not liable for payment of debts of the decedent or claims against the decedent's estate. This bill amends the definition of "estate" for the purposes of recovery by the Department of Health and Human Services for MaineCare expenditures. This bill establishes April 1, 2006 as the date on which certain transfers are made fully subject to the reach of estate recovery activities.

Committee Amendment "A" (S-120)

This amendment deletes the proposed changes to the definition of "estate" for the purposes of recovery by the Department of Health and Human Services for MaineCare expenditures and instead specifies that joint tenancies in real property are not included in the decedent's estate for these purposes.

Enacted Law Summary

Public Law 2009, chapter 150 provides that the homestead allowance established in the Maine Revised Statutes, Title 18-A, section 2-401 is the sole exemption available for a decedent's homestead. It also provides that only personal property included in the decedent's estate that is exempt under Title 14, section 4422 is not liable for payment of debts of the decedent or claims against the decedent's estate. It also specifies that the definition of "estate" for the purposes of recovery by the Department of Health and Human Services for MaineCare expenditures does not include joint tenancies in real property.

**LD 372 An Act To Authorize the Administration of Epinephrine Autoinjectors
and Asthma Inhalers in Emergencies**

**ACCEPTED ONTP
REPORT**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
VALENTINO MARRACHE	ONTP MAJ OTP MIN	

This bill immunizes governmental entities from liability for claims for administering to an individual an emergency medication by or through an epinephrine autoinjector or asthma inhaler.

LD 375 An Act To Clarify the Amount of a Contract for Small Claim Purposes

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
INNES DAVIS G	ONTP	

Joint Standing Committee on Judiciary

This bill clarifies that in a small claims actions, notwithstanding the total amount of a debt or contract, the amount considered for jurisdictional purposes is only the debt or damage claimed.

See LD 443.

LD 376 An Act To Remove Domestic Court Cases from the Probate Court

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
WAGNER R CRAVEN	ONTP	

The purpose of this bill is to ensure the District Court has exclusive jurisdiction over family law actions. It clarifies that the jurisdiction of the District Court with regard to family matters is original and not concurrent with either the Superior Court or the Probate Court. It amends the general jurisdiction language of the Maine Revised Statutes, Title 19-A to provide that the District Court has exclusive jurisdiction over all court actions listed in Title 19-A unless expressly provided otherwise. This bill deletes the jurisdiction of the Probate Court over actions concerning a spouse's or parent's obligation to support the spouse or child. It also eliminates the jurisdiction of the Probate Court over parental rights and responsibilities for parents that are not married to each other.

LD 391 An Act To Amend the Law Concerning Adverse Possession

PUBLIC 255

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HOBBINS	OTP	

The purpose of this bill is to remove ambiguity in the laws governing adverse possession. The bill specifies that, if a person takes possession of land by mistake with respect to the location of the true boundary line, the mistaken belief does not defeat a claim of adverse possession.

Enacted Law Summary

Public Law 2009, chapter 255 specifies that, if a person takes possession of land by mistake with respect to the location of the true boundary line, the mistaken belief does not defeat a claim of adverse possession. Chapter 255 is intended to codify *Dombkowski v. Ferland*, 2006 ME 24.

LD 394 An Act To Protect Nonprofit Organizations from Embezzlement

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HOBBINS	ONTP	

This bill amends the Maine Nonprofit Corporation Act to require two authorized signatures on every check issued by a public benefit corporation. The signers may not be related. Checks that do not meet this requirement are void.